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17
18 Attorneys for Plaintiff
19 UNITED STATES OF AMERICA

20 UNITED STATES DISTRICT COURT

21 FOR THE CENTRAL DISTRICT OF CALIFORNIA

22 UNITED STATES OF AMERICA,

No. CR 2:24-CR-00751-MWC

23 Plaintiff,

PLEA AGREEMENT FOR DEFENDANT
JOSEPH BENZA III

24 v.

25 JOSEPH BENZA III,

26 Defendant.

27 1. This constitutes the plea agreement between JOSEPH BENZA
28 III ("defendant") and the United States Attorney's Office for the
Central District of California ("the USAO") in the above-captioned
case. This agreement is limited to the USAO and cannot bind any
other federal, state, local, or foreign prosecuting, enforcement,
administrative, or regulatory authorities.

29 DEFENDANT'S OBLIGATIONS

30 2. Defendant agrees to:

31 a. Give up the right to indictment by a grand jury and,
32 at the earliest opportunity requested by the USAO and provided by the

1 Court, appear and plead guilty to the one-count information in the
2 form attached to this agreement as Exhibit 1 or a substantially
3 similar form, which charges defendant with Deprivation of Rights
4 Under Color of Law, in violation of 18 U.S.C. § 242.

5 b. Not contest the Factual Basis agreed to in this
6 agreement.

7 c. Abide by all agreements regarding sentencing contained
8 in this agreement.

9 d. Appear for all court appearances, surrender as ordered
10 for service of sentence, obey all conditions of any bond, and obey
11 any other ongoing court order in this matter.

12 e. Not commit any crime; however, offenses that would be
13 excluded for sentencing purposes under United States Sentencing
14 Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not
15 within the scope of this agreement.

16 f. Be truthful at all times with the United States
17 Probation and Pretrial Services Office and the Court.

18 g. Submit certificate to the State of California
19 Commission on Peace Officer Standards and Training surrendering his
20 California Peace Officer Standards and Training certification, if
21 any, and not to seek to obtain a California Peace Officer Standards
22 and Training certification in the future.

23 h. Not seek future employment as a sworn law enforcement
24 officer of any federal, state, or local government, including as a
25 police officer, deputy sheriff, or peace officer.

26 i. Not seek future employment that involves carrying of a
27 firearm.

28

1 j. Pay the applicable special assessment at or before the
2 time of sentencing unless defendant has demonstrated a lack of
3 ability to pay such assessment.

4 k. Defendant agrees that any and all criminal debt
5 ordered by the Court will be due in full and immediately. The
6 government is not precluded from pursuing, in excess of any payment
7 schedule set by the Court, any and all available remedies by which to
8 satisfy defendant's payment of the full financial obligation,
9 including referral to the Treasury Offset Program.

10 l. Complete the Financial Disclosure Statement on a form
11 provided by the USAO and, within 30 days of defendant's entry of a
12 guilty plea, deliver the signed and dated statement, along with all
13 of the documents requested therein, to the USAO by either email at
14 usacac.FinLit@usdoj.gov (preferred) or mail to the USAO Financial
15 Litigation Section at 300 North Los Angeles Street, Suite 7516, Los
16 Angeles, CA 90012. Defendant agrees that defendant's ability to pay
17 criminal debt shall be assessed based on the completed Financial
18 Disclosure Statement and all required supporting documents, as well
19 as other relevant information relating to ability to pay.

20 m. Authorize the USAO to obtain a credit report upon
21 returning a signed copy of this plea agreement.

22 n. Consent to the USAO inspecting and copying all of
23 defendant's financial documents and financial information held by the
24 United States Probation and Pretrial Services Office.

25 3. Defendant further agrees to cooperate fully with the USAO,
26 the Federal Bureau of Investigation ("FBI"), and, as directed by the
27 USAO, any other federal, state, local, or foreign prosecuting,

enforcement, administrative, or regulatory authority. This cooperation requires defendant to:

3 a. Respond truthfully and completely to all questions
4 that may be put to defendant, whether in interviews, before a grand
5 jury, or at any trial or other court proceeding.

b. Attend all meetings, grand jury sessions, trials or other proceedings at which defendant's presence is requested by the USAO or compelled by subpoena or court order.

9 c. Produce voluntarily all documents, records, or other
10 tangible evidence relating to matters about which the USAO, or its
11 designee, inquires.

12 4. For purposes of this agreement: (1) "Cooperation
13 Information" shall mean any statements made, or documents, records,
14 tangible evidence, or other information provided, by defendant
15 pursuant to defendant's cooperation under this agreement or pursuant
16 to the letter agreements previously entered into by the parties dated
17 January 18, January 26, and November 6, 2024; and (2) "Plea
18 Information" shall mean any statements made by defendant, under oath,
19 at the guilty plea hearing and the agreed to Factual Basis statement
20 in this agreement.

THE USAO'S OBLIGATIONS

22 || 5. The USAO agrees to:

23 a. Not contest the Factual Basis agreed to in this
24 agreement.

25 b. Abide by all agreements regarding sentencing contained
26 in this agreement.

27 c. At the time of sentencing, provided that defendant
28 demonstrates an acceptance of responsibility for the offense up to

1 and including the time of sentencing, recommend a two-level reduction
2 in the applicable Sentencing Guidelines offense level, pursuant to
3 U.S.S.G. § 3E1.1, and recommend and, if necessary, move for an
4 additional one-level reduction if available under that section.

5 d. Except for criminal tax violations (including
6 conspiracy to commit such violations chargeable under 18 U.S.C.
7 § 371), not further criminally prosecute defendant for violations of
8 18 U.S.C. §§ 371, 1519, and 1001 arising out of defendant's conduct
9 described in the agreed-to factual basis set forth in Attachment A.
10 Defendant understands that the USAO is free to criminally prosecute
11 defendant for any other unlawful past conduct or any unlawful conduct
12 that occurs after the date of this agreement. Defendant agrees that
13 at the time of sentencing the Court may consider the uncharged
14 conduct in determining the applicable Sentencing Guidelines range,
15 the propriety and extent of any departure from that range, and the
16 sentence to be imposed after consideration of the Sentencing
17 Guidelines and all other relevant factors under 18 U.S.C. § 3553(a).
18

6. The USAO further agrees:

19 a. Not to offer as evidence in its case-in-chief in the
20 above-captioned case or any other criminal prosecution that may be
21 brought against defendant by the USAO, or in connection with any
22 sentencing proceeding in any criminal case that may be brought
23 against defendant by the USAO, any Cooperation Information.
24 Defendant agrees, however, that the USAO may use both Cooperation
25 Information and Plea Information: (1) to obtain and pursue leads to
26 other evidence, which evidence may be used for any purpose, including
27 any criminal prosecution of defendant; (2) to cross-examine defendant
28 should defendant testify, or to rebut any evidence offered, or

1 argument or representation made, by defendant, defendant's counsel,
2 or a witness called by defendant in any trial, sentencing hearing, or
3 other court proceeding; and (3) in any criminal prosecution of
4 defendant for false statement, obstruction of justice, or perjury.

5 b. Not to use Cooperation Information against defendant
6 at sentencing for the purpose of determining the applicable guideline
7 range, including the appropriateness of an upward departure, or the
8 sentence to be imposed, and to recommend to the Court that
9 Cooperation Information not be used in determining the applicable
10 guideline range or the sentence to be imposed. Defendant
11 understands, however, that Cooperation Information will be disclosed
12 to the United States Probation and Pretrial Services Office and the
13 Court, and that the Court may use Cooperation Information for the
14 purposes set forth in U.S.S.G § 1B1.8(b) and for determining the
15 sentence to be imposed.

16 c. In connection with defendant's sentencing, to bring to
17 the Court's attention the nature and extent of defendant's
18 cooperation.

19 d. If the USAO determines, in its exclusive judgment,
20 that defendant has both complied with defendant's obligations under
21 paragraphs 2 and 3 above and provided substantial assistance to law
22 enforcement in the prosecution or investigation of another
23 ("substantial assistance"), to move the Court pursuant to U.S.S.G.
24 § 5K1.1 to fix an offense level and corresponding guideline range
25 below that otherwise dictated by the sentencing guidelines, and to
26 recommend a term of imprisonment within this reduced range.

27 DEFENDANT'S UNDERSTANDINGS REGARDING COOPERATION

28 7. Defendant understands the following:

1 a. Any knowingly false or misleading statement by
2 defendant will subject defendant to prosecution for false statement,
3 obstruction of justice, and perjury and will constitute a breach by
4 defendant of this agreement.

5 b. Nothing in this agreement requires the USAO or any
6 other prosecuting, enforcement, administrative, or regulatory
7 authority to accept any cooperation or assistance that defendant may
8 offer, or to use it in any particular way.

9 c. Defendant cannot withdraw defendant's guilty plea if
10 the USAO does not make a motion pursuant to U.S.S.G. § 5K1.1 for a
11 reduced guideline range or if the USAO makes such a motion and the
12 Court does not grant it or if the Court grants such a USAO motion but
13 elects to sentence above the reduced range.

14 d. At this time the USAO makes no agreement or
15 representation as to whether any cooperation that defendant has
16 provided or intends to provide constitutes or will constitute
17 substantial assistance. The decision whether defendant has provided
18 substantial assistance will rest solely within the exclusive judgment
19 of the USAO.

20 e. The USAO's determination whether defendant has
21 provided substantial assistance will not depend in any way on whether
22 the government prevails at any trial or court hearing in which
23 defendant testifies or in which the government otherwise presents
24 information resulting from defendant's cooperation.

25 NATURE OF THE OFFENSE

26 8. Defendant understands that for defendant to be guilty of
27 the crime charged in count one, that is, Deprivation of Rights Under
28

1 Color of Law, in violation of Title 18, United States Code, Section
2 242, the following must be true:

3 a. First, Victim E.B. was in the State of California;
4 b. Second, defendant there deprived Victim E.B. of a
5 right secured by the Constitution or laws of the United States,
6 namely, the right to be free from the use of unreasonable force by a
7 law enforcement officer or the right to be free from retaliation by a
8 law enforcement officer based on activity protected by the First
9 Amendment.

10 c. Third, defendant acted under color of law when
11 depriving Victim E.B. of the constitutional right(s);

12 d. Fourth, defendant acted willfully to deprive Victim
13 E.B. of such right(s); and

14 e. Fifth, bodily injury resulted from defendant's
15 conduct.

16 9. With respect to a violation of Title 18, United States
17 Code, Section 242 for the deprivation of the right to be free from
18 retaliation by a law enforcement officer based on activity protected
19 by the First Amendment, the following must also be true: (a) Victim
20 E.B. was engaged in an activity protected by the First Amendment;
21 (b) defendant took an adverse action against Victim E.B. that would
22 chill a person of ordinary firmness from continuing in the activity;
23 and (c) defendant would not have taken the adverse action but for the
24 retaliatory motive.

25 PENALTIES AND RESTITUTION

26 10. Defendant understands that the statutory maximum sentence
27 that the Court can impose for a felony violation of Title 18, United
28 States Code, Section 242, is: 10 years' imprisonment; a 3-year period

1 of supervised release; a fine of \$250,000 or twice the gross gain or
2 gross loss resulting from the offense, whichever is greatest; and a
3 mandatory special assessment of \$100.

4 11. Defendant understands that supervised release is a period
5 of time following imprisonment during which defendant will be subject
6 to various restrictions and requirements. Defendant understands that
7 if defendant violates one or more of the conditions of any supervised
8 release imposed, defendant may be returned to prison for all or part
9 of the term of supervised release authorized by statute for the
10 offense that resulted in the term of supervised release, which could
11 result in defendant serving a total term of imprisonment greater than
12 the statutory maximum stated above.

13 12. Defendant understands that, by pleading guilty, defendant
14 may be giving up valuable government benefits and valuable civic
15 rights, such as the right to vote, the right to possess a firearm,
16 the right to hold office, and the right to serve on a jury.
17 Defendant understands that he is pleading guilty to a felony and that
18 it is a federal crime for a convicted felon to possess a firearm or
19 ammunition. Defendant understands that the conviction in this case
20 may also subject defendant to various other collateral consequences,
21 including but not limited to revocation of probation, parole, or
22 supervised release in another case and suspension or revocation of a
23 professional license. Defendant understands that unanticipated
24 collateral consequences will not serve as grounds to withdraw
25 defendant's guilty plea.

26 13. Defendant understands that, if defendant is not a United
27 States citizen, the felony conviction in this case may subject
28 defendant to: removal, also known as deportation, which may, under

1 some circumstances, be mandatory; denial of citizenship; and denial
2 of admission to the United States in the future. The Court cannot,
3 and defendant's attorney also may not be able to, advise defendant
4 fully regarding the immigration consequences of the felony conviction
5 in this case. Defendant understands that unexpected immigration
6 consequences will not serve as grounds to withdraw defendant's guilty
7 plea.

8 14. Defendant understands that defendant will be required to
9 pay full restitution to the victim of the offense to which defendant
10 is pleading guilty. Defendant agrees that, in return for the USAO's
11 compliance with its obligations under this agreement, the Court may
12 order restitution to persons other than the victim of the offense to
13 which defendant is pleading guilty and in amounts greater than those
14 alleged in the count to which defendant is pleading guilty. In
15 particular, defendant agrees that the Court may order restitution to
16 any victim of any of the following for any losses suffered by that
17 victim as a result: (a) any relevant conduct, as defined in U.S.S.G.
18 § 1B1.3, in connection with the offense to which defendant is
19 pleading guilty; and (b) any charges not prosecuted pursuant to this
20 agreement as well as all relevant conduct, as defined in U.S.S.G.
21 § 1B1.3, in connection with those charges.

FACTUAL BASIS

23 15. Defendant admits that defendant is, in fact, guilty of the
24 offense to which defendant is agreeing to plead guilty. Defendant
25 and the USAO agree to the statement of facts provided in Attachment A
26 hereto and agree that this statement of facts is sufficient to
27 support a plea of guilty to the charge described in this agreement
28 and to establish the Sentencing Guidelines factors set forth in

1 paragraph 17 below but is not meant to be a complete recitation of
2 all facts relevant to the underlying criminal conduct or all facts
3 known to either party that relate to that conduct.

4 SENTENCING FACTORS

5 16. Defendant understands that in determining defendant's
6 sentence the Court is required to calculate the applicable Sentencing
7 Guidelines range and to consider that range, possible departures
8 under the Sentencing Guidelines, and the other sentencing factors set
9 forth in 18 U.S.C. § 3553(a). Defendant understands that the
10 Sentencing Guidelines are advisory only, that defendant cannot have
11 any expectation of receiving a sentence within the calculated
12 Sentencing Guidelines range, and that after considering the
13 Sentencing Guidelines and the other § 3553(a) factors, the Court will
14 be free to exercise its discretion to impose any sentence it finds
15 appropriate up to the maximum set by statute for the crime of
16 conviction.

17 17. Defendant and the USAO agree to the following applicable
18 Sentencing Guidelines factors:

19 Base Offense Level: 14 U.S.S.G. §§ 2H1.1(a)(1),
20 2A2.2(a)

21 Serious Bodily Injury: +5 U.S.S.G. § 2A2.2(b)(3)

22 Color of Law: +6 U.S.S.G. § 2H1.1(b)(1)(B)

23 Obstruction of Justice: +2 U.S.S.G. § 3C1.1

24 Defendant and the USAO reserve the right to argue that additional
25 specific offense characteristics, adjustments, and departures under
26 the Sentencing Guidelines are appropriate.

27 18. Defendant understands that there is no agreement as to
28 defendant's criminal history or criminal history category.

1 19. Defendant and the USAO reserve the right to argue for a
2 sentence outside the sentencing range established by the Sentencing
3 Guidelines based on the factors set forth in 18 U.S.C. § 3553(a)(1),
4 (a)(2), (a)(3), (a)(6), and (a)(7).

WAIVER OF CONSTITUTIONAL RIGHTS

6 20. Defendant understands that by pleading guilty, defendant
7 gives up the following rights:

- a. The right to persist in a plea of not guilty.
 - b. The right to a speedy and public trial by jury.
 - c. The right to be represented by counsel - and if defendant retains the right to be represented by counsel - and if necessary have the Court appoint counsel at every other stage of the proceeding.
 - d. The right to be presumed innocent and to have the proof placed on the government to prove defendant guilty beyond reasonable doubt.
 - e. The right to confront and cross-examine witnesses for the defendant.
 - f. The right to testify and to present evidence in defense of the charges, including the right to compel the appearance of witnesses to testify.
 - g. The right not to be compelled to testify, and, if defendant chose not to testify or present evidence, to have that choice not be used against defendant.
 - h. Any and all rights to pursue any affirmative defense, including Sixth Amendment or Fifth Amendment claims, and other pretrial motions that have been filed or could be filed.

WAIVER OF APPEAL OF CONVICTION AND COLLATERAL ATTACK

2 21. Defendant understands that, with the exception of an appeal
3 based on a claim that defendant's guilty plea was involuntary, by
4 pleading guilty defendant is waiving and giving up any right to
5 appeal defendant's conviction on the offense to which defendant is
6 pleading guilty. Defendant understands that this waiver includes,
7 but is not limited to, arguments that the statute to which defendant
8 is pleading guilty is unconstitutional, and any and all claims that
9 the statement of facts provided herein is insufficient to support
10 defendant's plea of guilty.

11 22. Defendant also gives up any right to bring a post-
12 conviction collateral attack on the conviction or sentence, including
13 any order of restitution, except a post-conviction collateral attack
14 based on a claim of ineffective assistance of counsel, a claim of
15 newly discovered evidence, or an explicitly retroactive change in the
16 applicable Sentencing Guidelines, sentencing statutes, or statutes of
17 conviction. Defendant understands that this waiver includes, but is
18 not limited to, arguments that the statute to which defendant is
19 pleading guilty is unconstitutional, and any and all claims that the
20 statement of facts provided herein is insufficient to support
21 defendant's plea of guilty.

22 23. This agreement does not affect in any way the right of the
23 USAO to appeal the sentence imposed by the Court.

LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

25 24. Defendant agrees that, provided the Court imposes a total
26 term of imprisonment on the count of conviction within or below the
27 range corresponding to an offense level of 24 and the criminal
28 history category calculated by the Court, defendant gives up the

right to appeal all of the following: (a) the procedures and calculations used to determine and impose any portion of the sentence; (b) the term of imprisonment imposed by the Court; (c) the fine imposed by the Court, provided it is within the statutory maximum; (d) to the extent permitted by law, the constitutionality or legality of defendant's sentence, provided it is within the statutory maximum; (e) the amount and terms of any restitution order; (f) the term of probation or supervised release imposed by the Court, provided it is within the statutory maximum; and (g) any of the following conditions of probation or supervised release imposed by the Court: the conditions set forth in Second Amended General Order 20-04 of this Court; the drug testing conditions mandated by 18 U.S.C. §§ 3563(a)(5) and 3583(d); the alcohol and drug use conditions authorized by 18 U.S.C. § 3563(b)(7); and any conditions of probation or supervised release agreed to by defendant in paragraph 2 above.

16 25. The USAO agrees that, provided (a) all portions of the
17 sentence are at or below the statutory maximum specified above and
18 (b) the Court imposes a term of imprisonment within or above the
19 range corresponding to an offense level of 24 and the criminal
20 history category calculated by the Court, the USAO gives up its right
21 to appeal any portion of the sentence.

RESULT OF WITHDRAWAL OF GUILTY PLEA

23 26. Defendant agrees that if, after entering a guilty plea
24 pursuant to this agreement, defendant seeks to withdraw and succeeds
25 in withdrawing defendant's guilty plea on any basis other than a
26 claim and finding that entry into this plea agreement was
27 involuntary, then (a) the USAO will be relieved of all of its
28 obligations under this agreement, including in particular its

1 obligations regarding the use of Cooperation Information; (b) in any
2 investigation, criminal prosecution, or civil, administrative, or
3 regulatory action, defendant agrees that any Cooperation Information
4 and any evidence derived from any Cooperation Information shall be
5 admissible against defendant, and defendant will not assert, and
6 hereby waives and gives up, any claim under the United States
7 Constitution, any statute, or any federal rule, that any Cooperation
8 Information or any evidence derived from any Cooperation Information
9 should be suppressed or is inadmissible; and (c) should the USAO
10 choose to pursue any charge that was either dismissed or not filed as
11 a result of this agreement, then (i) any applicable statute of
12 limitations will be tolled between the date of defendant's signing of
13 this agreement and the filing commencing any such action; and
14 (ii) defendant waives and gives up all defenses based on the statute
15 of limitations, any claim of pre-indictment delay, or any speedy
16 trial claim with respect to any such action, except to the extent
17 that such defenses existed as of the date of defendant's signing this
18 agreement.

RESULT OF VACATUR, REVERSAL OR SET-ASIDE

20 27. Defendant agrees that if the count of conviction is
21 vacated, reversed, or set aside, both the USAO and defendant will be
22 released from all their obligations under this agreement.

EFFECTIVE DATE OF AGREEMENT

24 28. This agreement is effective upon signature and execution of
25 all required certifications by defendant, defendant's counsel, and an
26 Assistant United States Attorney.

BREACH OF AGREEMENT

2 29. Defendant agrees that if defendant, at any time after the
3 signature of this agreement and execution of all required
4 certifications by defendant, defendant's counsel, and an Assistant
5 United States Attorney, knowingly violates or fails to perform any of
6 defendant's obligations under this agreement ("a breach"), the USAO
7 may declare this agreement breached. For example, if defendant
8 knowingly, in an interview, before a grand jury, or at trial, falsely
9 accuses another person of criminal conduct or falsely minimizes
10 defendant's own role, or the role of another, in criminal conduct,
11 defendant will have breached this agreement. All of defendant's
12 obligations are material, a single breach of this agreement is
13 sufficient for the USAO to declare a breach, and defendant shall not
14 be deemed to have cured a breach without the express agreement of the
15 USAO in writing. If the USAO declares this agreement breached, and
16 the Court finds such a breach to have occurred, then:

17 a. If defendant has previously entered a guilty plea
18 pursuant to this agreement, defendant will not be able to withdraw
19 the guilty plea.

20 b. The USAO will be relieved of all its obligations under
21 this agreement; in particular, the USAO: (i) will no longer be bound
22 by any agreements concerning sentencing and will be free to seek any
23 sentence up to the statutory maximum for the crime to which defendant
24 has pleaded guilty; (ii) will no longer be bound by any agreements
25 regarding criminal prosecution, and will be free to criminally
26 prosecute defendant for any crime, including charges that the USAO
27 would otherwise have been obligated not to criminally prosecute
28 pursuant to this agreement; and (iii) will no longer be bound by any

1 agreement regarding the use of Cooperation Information and will be
2 free to use any Cooperation Information in any way in any
3 investigation, criminal prosecution, or civil, administrative, or
4 regulatory action.

5 c. The USAO will be free to criminally prosecute
6 defendant for false statement, obstruction of justice, and perjury
7 based on any knowingly false or misleading statement by defendant.

8 d. In any investigation, criminal prosecution, or civil,
9 administrative, or regulatory action: (i) defendant will not assert,
10 and hereby waives and gives up, any claim that any Cooperation
11 Information was obtained in violation of the Fifth Amendment
12 privilege against compelled self-incrimination; and (ii) defendant
13 agrees that any Cooperation Information and any Plea Information, as
14 well as any evidence derived from any Cooperation Information or any
15 Plea Information, shall be admissible against defendant, and
16 defendant will not assert, and hereby waives and gives up, any claim
17 under the United States Constitution, any statute, Rule 410 of the
18 Federal Rules of Evidence, Rule 11(f) of the Federal Rules of
19 Criminal Procedure, or any other federal rule, that any Cooperation
20 Information, any Plea Information, or any evidence derived from any
21 Cooperation Information or any Plea Information should be suppressed
22 or is inadmissible.

23 30. Following the Court's finding of a knowing breach of this
24 agreement by defendant, should the USAO choose to pursue any charge
25 that was either dismissed or not filed as a result of this agreement,
26 then:

27

28

1 a. Defendant agrees that any applicable statute of
2 limitations is tolled between the date of defendant's signing of this
3 agreement and the filing commencing any such action.

4 b. Defendant waives and gives up all defenses based on
5 the statute of limitations, any claim of pre-indictment delay, or any
6 speedy trial claim with respect to any such action, except to the
7 extent that such defenses existed as of the date of defendant's
8 signing this agreement.

9 COURT AND UNITED STATES PROBATION AND PRETRIAL SERVICES

10 OFFICE NOT PARTIES

11 31. Defendant understands that the Court and the United States
12 Probation and Pretrial Services Office are not parties to this
13 agreement and need not accept any of the USAO's sentencing
14 recommendations or the parties' agreements to facts or sentencing
15 factors.

16 32. Defendant understands that both defendant and the USAO are
17 free to: (a) supplement the facts by supplying relevant information
18 to the United States Probation and Pretrial Services Office and the
19 Court, (b) correct any and all factual misstatements relating to the
20 Court's Sentencing Guidelines calculations and determination of
21 sentence, and (c) argue on appeal and collateral review that the
22 Court's Sentencing Guidelines calculations and the sentence it
23 chooses to impose are not error, although each party agrees to
24 maintain its view that the calculations in paragraph 17 are
25 consistent with the facts of this case. While this paragraph permits
26 both the USAO and defendant to submit full and complete factual
27 information to the United States Probation and Pretrial Services
28 Office and the Court, even if that factual information may be viewed

1 as inconsistent with the Factual Basis agreed to in this agreement,
2 this paragraph does not affect defendant's and the USAO's obligations
3 not to contest the Factual Basis agreed to in this agreement.

4 33. Defendant understands that even if the Court ignores any
5 sentencing recommendation, finds facts or reaches conclusions
6 different from those agreed to, and/or imposes any sentence up to the
7 maximum established by statute, defendant cannot, for that reason,
8 withdraw defendant's guilty plea, and defendant will remain bound to
9 fulfill all defendant's obligations under this agreement. Defendant
10 understands that no one -- not the prosecutor, defendant's attorney,
11 or the Court -- can make a binding prediction or promise regarding
12 the sentence defendant will receive, except that it will be within
13 the statutory maximum.

NO ADDITIONAL AGREEMENTS

15 34. Defendant understands that, except as set forth herein,
16 there are no promises, understandings, or agreements between the USAO
17 and defendant or defendant's attorney, and that no additional
18 promise, understanding, or agreement may be entered into unless in a
19 writing signed by all parties or on the record in court.

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1 PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

2 35. The parties agree that this agreement will be considered
3 part of the record of defendant's guilty plea hearing as if the
4 entire agreement had been read into the record of the proceeding.

5 AGREED AND ACCEPTED

6 UNITED STATES ATTORNEY'S OFFICE
7 FOR THE CENTRAL DISTRICT OF
8 CALIFORNIA

9 E. MARTIN ESTRADA
10 United States Attorney

11 _____
12 SUSAN HAR
13 Assistant United States Attorney

14 _____
15 JOSEPH BENZA III
16 Defendant

17 _____
18 TOM YU
19 ED ROBINSON
20 Attorneys for Defendant JOSEPH
21 BENZA III

12/17/2024

Date

12-16-2024

Date

12/16/24

Date

1 CERTIFICATION OF DEFENDANT

2 I have read this agreement in its entirety. I have had enough
3 time to review and consider this agreement, and I have carefully and
4 thoroughly discussed every part of it with my attorney. I understand
5 the terms of this agreement, and I voluntarily agree to those terms.
6 I have discussed the evidence with my attorney, and my attorney has
7 advised me of my rights, of possible pretrial motions that might be
8 filed, of possible defenses that might be asserted either prior to or
9 at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a),
10 of relevant Sentencing Guidelines provisions, and of the consequences
11 of entering into this agreement. No promises, inducements, or
12 representations of any kind have been made to me other than those
13 contained in this agreement. No one has threatened or forced me in
14 any way to enter into this agreement. I am satisfied with the
15 representation of my attorney in this matter, and I am pleading
16 guilty because I am guilty of the charge and wish to take advantage
17 of the promises set forth in this agreement, and not for any other
18 reason.

19 

20 JOSEPH BENZA III
Defendant

12-16-2024

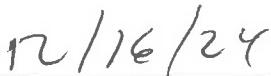
21 Date

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1 CERTIFICATION OF DEFENDANT'S ATTORNEY

2 I am JOSEPH BENZA III's attorney. I have carefully and
3 thoroughly discussed every part of this agreement with my client.
4 Further, I have fully advised my client of his rights, of possible
5 pretrial motions that might be filed, of possible defenses that might
6 be asserted either prior to or at trial, of the sentencing factors
7 set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines
8 provisions, and of the consequences of entering into this agreement.
9 To my knowledge: no promises, inducements, or representations of any
10 kind have been made to my client other than those contained in this
11 agreement; no one has threatened or forced my client in any way to
12 enter into this agreement; my client's decision to enter into this
13 agreement is an informed and voluntary one; and the factual basis set
14 forth in this agreement is sufficient to support my client's entry of
15 a guilty plea pursuant to this agreement.

16 

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18 Date

19 TOM YU
20 ED ROBINSON
21 Attorney for Defendant JOSEPH
22 BENZA III

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Attachment A

ATTACHMENT A

FACTUAL BASIS

A. Defendant Willfully Used Excessive Force Against Victim E.B. in Retaliation for Victim E.B. Engaging in First Amendment-Protected Activity

1. At all times relevant to this Factual Basis, defendant was a sworn law enforcement officer and deputy employed by the Los Angeles County Sheriff's Department ("LASD"). Defendant was assigned to work at LASD's Norwalk Station in Norwalk, California.

2. Defendant knew that using excessive or unreasonable force against a civilian was against the law and LASD policy. Defendant also knew that taking retaliatory force or action against an individual merely for expressing criticism of, or disrespect for, law enforcement officers was against the law and LASD policy. Defendant knew that the gesture of extending the middle finger at, colloquially known as "flipping off" or a "flip-off," a law enforcement officer was an activity protected by the First Amendment of the Constitution of the United States.

3. On February 10, 2023, as part of defendant's official duties for LASD, he was responding to calls for service during an overtime patrol shift. Defendant was wearing his full LASD uniform and driving a marked LASD sports utility vehicle (the "SUV").

4. At approximately 12:20 p.m. that day, defendant was in the area of Mystic Street and Guilford Avenue in South Whittier. Defendant received a call for service regarding a potential domestic violence disturbance and confirmed that he was en route to respond. Thereafter, defendant saw Victim E.B. driving a black Honda Civic. As Victim E.B. drove by defendant, Victim E.B. flipped off defendant.

1 In response, defendant abandoned the call for service he had
2 confirmed and instead began closely following Victim E.B. through a
3 residential neighborhood, at certain points reaching speeds of over
4 50 miles per hour. Defendant closely followed Victim E.B. for
5 approximately 1.8 miles without attempting to stop Victim E.B. or
6 pull over Victim E.B.

7 5. As defendant chased after Victim E.B., defendant called
8 Deputy A. During the call, defendant told Deputy A that someone had
9 just flipped him off and that defendant was going to conduct a
10 traffic stop of that person. Because defendant intended to use force
11 against Victim E.B., defendant further asked Deputy A to start
12 driving towards defendant's location.

13 6. As defendant pursued Victim E.B., Victim E.B. called 911 to
14 report that he was being followed. Victim E.B. advised the operator
15 that he had not been stopped or ordered to pull over and asked the
16 operator to verify whether the car that was following him was a real
17 police car.

18 7. Victim E.B. eventually pulled into the parking lot of a
19 convenience store near the intersection of Mulberry Drive and Mills
20 Avenue and parked in a designated parking spot. Defendant followed
21 Victim E.B. into the parking lot of the convenience store, parked his
22 SUV behind Victim E.B.'s car, and only then activated the SUV's
23 overhead lights.

24 8. Defendant approached Victim E.B., who was exiting Victim
25 E.B.'s car. Defendant told Victim E.B. that defendant had stopped
26 Victim E.B. Victim E.B. denied that defendant had stopped Victim
27 E.B. Without giving any commands to Victim E.B., defendant grabbed
28 Victim E.B. Victim E.B. pulled away from defendant and said, "Don't

1 touch me." Defendant then violently body slammed Victim E.B. onto
2 the ground. Once Victim E.B. was on the ground, defendant mounted
3 Victim E.B., punched Victim E.B.'s head and face multiple times, and
4 pressed Victim E.B.'s face into the pavement. Victim E.B. repeatedly
5 screamed for help and shouted, "You're going to kill me!"; "I can't
6 breathe!"; and "Please stop!"

7 9. As a result of defendant's assault of Victim E.B., Victim
8 E.B. sustained serious bodily injury, including suffering a
9 concussion, contusions (bruising), and abrasions (cuts) and
10 experiencing vomiting and head pain.

11 10. In assaulting Victim E.B., defendant willfully deprived
12 Victim E.B. of rights secured by the Constitution and laws of the
13 United States, including the right to be free from the use of
14 excessive and unnecessary force by a law enforcement officer and the
15 right to be free from retaliation by a law enforcement officer based
16 on activity protected by the First Amendment. But for defendant's
17 intent and motive to retaliate against Victim E.B. for flipping-off
18 defendant, defendant would not have pursued, stopped, or used
19 excessive force against Victim E.B.

20 11. Defendant acted under color of law. Defendant also acted
21 willfully, with intent to deprive Victim E.B. of constitutional
22 rights.

23 **B. Defendant, Aided and Abetted by Sergeant 1, Falsified an LASD**
24 **Incident Report in Order to Conceal Defendant's Retaliatory**
25 **Motive and Use of Excessive Force**

26 12. Later that same day, defendant went to Norwalk Station and
27 began preparing his LASD incident report regarding his traffic stop
28 of, and use of force against, Victim E.B. (the "Incident Report").

1 Defendant discussed with Deputy B and Sergeant 1 whether to include
2 in the Incident Report why defendant began following Victim E.B.,
3 that is, because Victim E.B. flipped off defendant. Sergeant 1
4 counseled defendant to omit that fact from the Incident Report.

5 13. Between February 10 and February 11, 2023, defendant, aided
6 and abetted by Sergeant 1, prepared the final version of the Incident
7 Report, which was assigned Uniform Report Number ("URN") 023-01746-
8 0492-057.

9 14. Defendant, aided and abetted by Sergeant 1, intentionally
10 omitted from the Incident Report any reference to Victim E.B.
11 flipping off defendant in order to conceal that defendant had
12 pursued, stopped, and used excessive force against Victim E.B. in
13 retaliation for Victim E.B. flipping off defendant.

14 15. In the Incident Report, defendant also lied about the
15 reason he followed and eventually stopped Victim E.B., misleadingly
16 stating that he conducted a traffic stop for obstructed driver view,
17 in violation of the California Vehicle Code, purportedly based on a
18 tree-shaped air freshener hanging from the rearview mirror of Victim
19 E.B.'s car. In reality, as defendant then knew, defendant pursued,
20 stopped, and used excessive force against Victim E.B. in retaliation
21 for Victim E.B. flipping off defendant.

22 16. To further conceal defendant's violations of Victim E.B.'s
23 constitutional rights and to create the misleading impression that
24 defendant's use of force was justified, defendant, aided and abetted
25 by Sergeant 1, falsely portrayed Victim E.B. as a threat to his
26 physical safety in the Incident Report. Specifically, the Incident
27 Report falsely stated that Victim E.B. bit defendant's hand, clenched
28 Victim E.B.'s teeth down with enough force to puncture defendant's

1 skin, and attempted to rip defendant's skin from his hand. In
2 reality, Victim E.B. had not done any of these things.

3 17. Defendant also falsely arrested Victim E.B. with mayhem, in
4 violation of California Penal Code section 203. In reality, as
5 defendant then knew, Victim E.B. did not cause mayhem to defendant.

6 18. In addition to disclosing to Sergeant 1 that defendant saw
7 Victim E.B. flip defendant off, defendant also disclosed that fact to
8 Sergeant 2 and Sergeant 3. Sergeant 2 and Sergeant 3 counseled
9 defendant to omit that fact from the Incident Report.

10 **C. Defendant Engaged in Other Obstructionist Conduct**

11 19. After defendant and Sergeant 1 had falsified defendant's
12 Incident Report, including by omitting the fact of Victim E.B.'s
13 flip-off, on February 13 and 14, 2023, defendant and Sergeant 1
14 discussed whether Victim E.B. had recorded the flip-off on Victim
15 E.B.'s cellphone. Defendant reassured Sergeant 1 that defendant had
16 looked at Victim E.B.'s cellphone after his use of force and did not
17 see it recording the flip-off.

18 20. In July 2023, various media outlets reported on defendant's
19 use of force against Victim E.B. On July 23, 2023, defendant
20 exchanged group text messages with Deputy C and Deputy D.

21 21. In those group text messages, defendant, Deputy C, and
22 Deputy D discussed the media reports and the anticipated federal
23 investigation of defendant. Defendant, Deputy C, and Deputy D
24 discussed the need to delete text messages on their personal
25 cellphones in light of the anticipated federal investigation.

26 22. Three days later, on July 26, 2023, Deputy C sent a text
27 message to the same group to relay Sergeant 1's instruction for
28

1 defendant to "toss the phone," which defendant understood as a
2 directive to delete the data from his personal cellphone.

3 23. Throughout 2024, Deputy C kept defendant apprised of Deputy
4 C's contacts with the FBI and the United States Attorney's Office
5 ("USAO"). Before Deputy C's interview with the FBI and the USAO in
6 September 2024, Deputy C and defendant discussed lying to federal
7 authorities in order to provide an innocuous explanation for their
8 text messages about Sergeant 1's directive to "dump" the cellphone,
9 including to falsely characterize the message as an instruction to
10 "dump" the cellphone into the cloud to preserve the data. Deputy C
11 later confirmed to defendant that he planned to adopt that false
12 explanation when speaking with the federal authorities.

13 **D. Defendant Lied to the FBI and the USAO to Further Conceal His
14 Crimes**

15 24. On January 30, 2024, the FBI and the USAO interviewed
16 defendant regarding his use of force against Victim E.B. At the
17 beginning of the interview, with counsel present, defendant was
18 advised that making materially false statements to the government was
19 a crime. During the interview, defendant falsely stated that: (a) he
20 had not seen Victim E.B. or anyone else flip him off; (b) Victim E.B.
21 had bitten defendant; and (c) defendant had not discussed
22 substantively the contents of the Incident Report with anyone as he
23 drafted it. In fact, as defendant then knew, (a) defendant had seen
24 Victim E.B. flip him off and had retaliated against Victim E.B. with
25 excessive force because of it; (b) defendant knew Victim E.B. had not
26 bitten him; and (c) defendant substantively had discussed the
27 Incident Report with others, including with Sergeant 1, and
28 specifically had discussed the decision to omit from the Incident

1 Report that Victim E.B. had flipped off defendant and the decision to
2 charge Victim E.B. with mayhem. Defendant also knew that Sergeant 1
3 had drafted substantive portions of the Incident Report for
4 defendant.

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